



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1998

The Honorable Frank Madla
Chair, Senate Nominations Committee
Texas State Senate
P.O. Box 12068
Austin, Texas 78711

Letter Opinion No. 98-118

Re: Whether county may assess permit and
registration fees for drilling and equipping water
wells (RQ-1204)

Dear Senator Madla:

You tell us that Kendall County charges property owners a \$175 well permit fee and a \$25 property development fee for the drilling and equipping of water wells in the county. You ask whether the county has the authority to assess these fees.

Counties have only those powers specifically conferred upon them by the constitution or by statute.¹ Like other public entities in this state, other than home-rule cities, counties may not charge a fee unless the fee is specifically provided for by law.² Even where a county is authorized to regulate with respect to a particular subject matter, a county may not impose fees in connection with that regulation unless it is specifically authorized by to do so.³ In other words, county fees may not be permitted by implication, but only by express authority from the legislature or the state constitution.⁴

We know of no law that authorizes a county to charge the fees you describe. We therefore conclude that Kendall County may not assess a well permit fee or property development fee for the drilling and equipping of water wells.

¹*Canales v. Laughlin*, 214 S.W.2d 451, 453 (Tex. 1948).

²See Attorney General Opinions DM-22 (1991) at 1 (finding no authority for water conservation district to impose fees for water well permitting and registration); MW-5 (1979) at 1 (finding no authority for county to charge adoption fee); Letter Opinion Nos. 96-118 (1996) at 2 (finding no authority for county to charge fee for verifying installation of and monitoring motor vehicle interlock device); 94-066 (1994) at 2 (finding no authority for county to charge fee for transportation of bodies to county morgue); 92-020 (1992) at 2 (finding no authority for county to charge fee for storage of bodies).

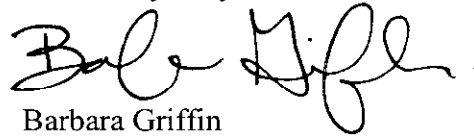
³See Attorney General Opinions DM-22 (1991) at 2; MW-5 (1979) at 1.

⁴Attorney General Opinion DM-22 (1991) at 2.

S U M M A R Y

Absent specific constitutional or statutory authority, a county may not assess a well permit fee or property development fee for the drilling and equipping of water wells.

Yours very truly,

A handwritten signature in black ink, appearing to read "Barbara Griffin", with a stylized flourish at the end.

Barbara Griffin
Assistant Attorney General
Opinion Committee